

CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH

OA 267/2000

New Delhi this the 6 th day of March, 2003

**Hon'ble Shri Govindan S.Tampi, Member (A)**

Smt.Valliamma,  
Widow of Late M.Krishnaswamy  
Pillai, Exh-Ticket No.1068,  
Vehicle Mech.of Central  
Vehicle Depot, Dahu Road,  
Resident of House No.10,  
Ward No.3,Dahu Road, Distt.PUNE.

Applicant

(By Advocate Shri J.M.Tanpure )

VERSUS

1. Union of India,  
through the Secretary,  
Ministry of Defence,  
South Block, New Delhi-1
2. The Commandant,  
Central AFV Depot, Kirkee,  
PUNE-411003.
3. The Chief Controller of Defence  
Accounts (Pensions ),  
Allahabad.

Respondents

**O R D E R (ORAL)**

**(Hon'ble Shri Govindan S.Tampi, Member (A)**

Release of pension to the applicant is the demand  
raised by him in this OA.

2. S/Shri J.M.Tanpure and R.K.Shetty appeared for  
the applicant and the respondents, respectively during the  
personal hearing.

3. The husband of the applicant, a Mechanic, worked  
in LAD Workshop, Ahmed Nagar from 1946 to 53, wherefrom he  
came over to Central Vehicle Depot, Dehu Road, Pune. His

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sevices were terminated in March, 69 when the Depot was disbanded and no alternate job was provided for. In 72 when orders were received for grant of pensionary benefits to ex-employee, who granted for them, the applicant's husband also exercised option, but was advised that as his service records were not available, the benefits sought could not be granted. The ex-employee furnished all the details asked by the respondents but till his death on 16.11.1994, nothing was received. The said employee was a CPF retiree, who was denied ex-gratia payment for five years, in spite of being entitled for the same had filed another OA No.973/99, which is also pending decisions. Hence this OA.

4. Gounds raised in this OA are as below:-

i) having been an employee in 1969, in the Central Vehicle Depot, Dehu Road, the applicant's husband was entitled to pensionary benefits as per letter No.CPRO 58/72/ attached to Defence Ministry's letter No. 18 (2) /72/W CSI.III);

ii) a few others similarly placed were granted pension, through in their case also the service books were reportedly lost as in the case of the applicant's husband.

iii) denial of the pensinary benefits were violative of articles 14 and 16 of the Constitution, as the employee had rendered more than 23 years of service and

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iv) the deceased employee was entitled for compensation pension under Rule 39 of the Pension Rules, in terms of letter No.B.19007/ Org 4(iv) (P) dated 11.7.1977 of the Army Headquarters.

The applicant pleads that she was in abject poverty and penury and the release of the benefits - arrears of pensions and family pension, along with compensation of Rs.50,000/- only would alleviate her grievances.

The above pleas were forcefully reiterated by Sr.Tanpure during the oral submissions.

5. Rebutting the above pleas, respondents pointed out that the applicant has already filed OA 973/99 claiming ex-gratia payment on the ground that her husband had not opted to come over to pension scheme and the same has been granted. That being the case, how could she seek pensionary benefits as well? Service Book of the applicant which is on record- not lost- shows that the applicant's husband had not opted for pensionary benefits, and that he was only a Contributory Provident Fund (CPF) optee. The cause of action apparently has arisen in March, 1969 and, therefore, the Tribunal does not have any jurisdiction to deal with this OA. Husband of the applicant had worked at Ahmednagar from 1946 to 1953 and thereafter upto March, 1969 at Dehu Road, wherefrom he was discharged. As he was a CPF optee, pensionary benefits were not available to him and as such the applicant has been granted exgratia payment.

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on 4.1.2000 and therefore, nothing further was payable to her. The applicant had also been given retrenchment compensation which shouts out any further pensionary payments. In terms of CPR0 58/72, the time limit for option for any type of pensionary benefits was six months from 1.3.69 which the deceased employee has not exercised and therefore, the present applicant cannot do so.

6. In rejoinder by way of a miscellaneous petition the applicant has sought for production of certain documents, as according to her, the deceased employee- her husband- had told her that he had opted for pensionary benefits, and the said documents have been suppressed by the respondents. This is contested by the respondents. The applicant also produces a letter dated 18.7.1977 addressed to a similarly placed individual, stating that those who retired between March 69 and June 1972 were permitted to opt for pensionary benefit in supersession of their previous CPF option. Benefit of this should be extended to the applicant, it is argued.

7. I have carefully considered the matter and I am convinced that in the facts and circumstances, as brought out the applicant has no case. The deceased husband of the applicant, whose services were terminated in March, 1969 with over 20 years of service was a CPF retiree and had been granted double his contribution by the respondents. He was, therefore, not entitled for pensionary benefits. He had also not opted for the pensionary benefits though

applicant states that she had been told he had done so. He had been given in addition to retrenchment compensation for the termination of his services. Therefore, no retirement/pensionary benefits were available. The applicant has also been given ex-gratia payment which fulfills all the requirements to be completed by the respondents. The applicant cannot claim all the benefits-CPF, retrenchment compensations and exgratia payment - and still ask for pensionary benefits. These are totally unreasonable demands and they cannot be endorsed in law.

8. OA in the above circumstances, fails being devoid of any merit and is accordingly dismissed. No costs.

(Govindan S. Tamai )  
Member (A)

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